

REMARKS

SUMMARY

Reconsideration of the application is respectfully requested.

Claims 1-24 are now in the application.

Applicants appreciate the consideration of applicants' Appeal Brief and the reopening of prosecution as indicated in "Detailed Action" item 1 on page 2 of the above-identified Office Action.

Moreover, applicants appreciate in "Response to Argument" item 3 on page 2 the withdrawal of the rejections of claims 1-24 under 35 U.S.C. § 102(b) to U.S. Patent No. 5,742,829 to *Davis, et al.* (hereinafter "**DAVIS**"). Applicants respectfully note that **DAVIS** was misreported as *Moshir, et al.* in the above-identified Office Action.

Applicants appreciatively acknowledge the Examiner's consideration and acceptance of the drawings filed on January 23, 2001.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

In "Claim Rejections – 35 USC § 102" item 5 on page 3 of the above-identified Office Action, claims 1-24 have been rejected as being fully anticipated by U.S. Patent Application Publication No. 2002/0100036 A1 to *Moshir, et al.* (hereinafter "**MOSHIR**") under 35 U.S.C. § 102(e). Applicants respectfully traverse.

While the rejections indicated in "Claim Rejections – 35 USC § 102" on page 3 of the above-identified Office Action are noted, applicants respectfully submit, as will be seen from the following, that **MOSHIR** is not available as a prior art reference against the instant application.

Initially, applicants note that **MOSHIR** was filed on **September 20, 2000**, about **eight months after** the instant application. However, **MOSHIR** also claims the priority of Provisional Application No. 60/234,680, originally filed **September 22, 2000**, under 35 U.S.C. § 119(e), less than about **four months before** the instant application was filed. Accordingly, **MOSHIR** must find support for each of the portions referenced in the above-identified Office Action in Provisional Application No. 60/234,680.

Even assuming, *arguendo*, that the cited portions of **MOSHIR** are properly supported, in response, applicants submit herewith a declaration, in accordance with 37 C.F.R. § 1.131, by the patent attorney who personally wrote and/or supervised the writing of the patent application. The declaration states that the applicants "reduced to practice" the invention of the instant application before **September 22, 2000**. Enclosed as corroborating evidence is a summary of available new features the patent attorney received from the inventors in the document entitled "Update Service v1.5 Feature List" created by Geoffrey K. Bauman, one of the Inventors, and dated **July 18, 2000**. Applicants respectfully note that the previously-identified document includes features from both version 1.1 and version 1.5 of the Update Service and that those features of version 1.5 were the new features being explained in the **July 18, 2000** document.

Accordingly, **MOSHIR** is believed not to be available as a prior art reference against the instant application. As the instant application predates the effective availability date of Provisional Application No. 60/234,680, filed **September 22, 2000**, corresponding to **MOSHIR** by **more than 2 months**.

In view of the foregoing, the Examiner is requested to withdraw the rejections under 35 U.S.C. § 102(e) in item 5 on page 3 of "Claim Rejections – 35 USC § 102" of the above-identified Office Action and issue a Notice of Allowance.

CONCLUSION

In view of the foregoing, reconsideration and allowance of claims 1-24 are solicited. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1509. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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by: Kyle H. Flindt
Kyle H. Flindt
Reg. No.: 42,539

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981